



House of Representatives

General Assembly

File No. 432

February Session, 2002

Substitute House Bill No. 5088

House of Representatives, April 10, 2002

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EDUCATIONAL SUPPORT ORDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) For purposes of this
2 section, an educational support order is an order entered by a court
3 requiring a parent to provide support for a child or children to attend
4 an institution of higher education or a private occupational school for
5 the purpose of attaining a bachelor's or other undergraduate degree, or
6 other appropriate vocational instruction.

7 (b) On motion or petition of a parent, the court may enter an
8 educational support order at the time of entering an order pursuant to
9 section 46b-84 or 46b-171 of the general statutes, or pursuant to a
10 similar support provision, or at any time thereafter. Such order may be
11 entered with respect to any child who has not attained twenty-three
12 years of age and shall terminate not later than the date on which the
13 child attains twenty-three years of age or, if such date occurs during
14 the child's academic year, not later than the end of that academic year.

15 (c) In determining whether to enter an educational support order,
16 the court shall consider all relevant circumstances, including: (1) The
17 parents' income, assets and other obligations; (2) the child's need for
18 support to attend an institution of higher education or private
19 occupational school considering the child's assets and the child's
20 ability to earn income; (3) the availability of financial aid from other
21 sources, including grants and loans; (4) the reasonableness of the
22 higher education to be funded considering the child's academic record
23 and the financial resources available; (5) the likelihood that the parents
24 would have provided support to the child for higher education if the
25 family were intact; (6) the child's preparation for, aptitude for and
26 commitment to higher education; and (7) evidence, if any, of the
27 institution of higher education or private occupational school the child
28 would attend.

29 (d) At the appropriate time, both parents shall participate in, and
30 agree upon, the decision as to which institution of higher education or
31 private occupational school the child will attend. The court may make
32 an order resolving the matter if the parents fail to reach an agreement.

33 (e) To qualify for payments due under an educational support
34 order, the child must (1) enroll in an accredited institution of higher
35 education or private occupational school, as defined in section 10a-22a
36 of the general statutes, (2) actively pursue a course of study
37 commensurate with the child's vocational goals that constitutes at least
38 one-half the course load determined by that institution or school to
39 constitute full-time enrollment, (3) maintain good academic standing
40 in accordance with the rules of the institution or school, and (4) make
41 available all academic records to both parents during the term of the
42 order. The order shall be suspended after any academic period during
43 which the child fails to comply with these conditions.

44 (f) The educational support order may include support for any
45 necessary educational expense, including room, board, dues, tuition,
46 books, fees, registration and application costs and medical expenses,
47 including medical insurance and dental expenses.

48 (g) The court may direct that payments under an educational
49 support order be made (1) to a parent to be forwarded to the
50 institution of higher education or private occupational school, (2)
51 directly to the institution or school, or (3) otherwise as the court
52 determines to be appropriate.

53 (h) On motion or petition of a parent, an educational support order
54 may be modified or enforced in the same manner as a support order
55 entered pursuant to section 46b-84 or 46b-171 of the general statutes.

56 (i) This section does not create a right of action by a child for
57 parental support for higher education.

58 (j) An educational support order under this section does not include
59 support for graduate or post-graduate education beyond a bachelor's
60 degree.

61 (k) The provisions of this section shall apply only in cases when the
62 initial order for parental support of the child is entered on or after the
63 effective date of this section.

This act shall take effect as follows:	
Section 1	October 1, 2002

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill allows the court to order divorcing parents and fathers subject to paternity orders to support their offspring who enroll in accredited college or vocational programs after high school until they reach age 23. The court can order that payments be made to a parent or directly to the educational institution. Under current law, the educational support obligation ends when a child turns 18. The bill would extend educational support enforcement cases for an additional five years. This change is not anticipated to substantially increase the workload of the Judicial Department's Support Enforcement Services division because the agency would not periodically update the educational support orders as it does with other types of orders. Consequently, there is no fiscal impact to the Judicial Department.

The bill is not anticipated to increase enrollment at institutions of higher education. Consequently, no additional revenue from tuition is expected.

OLR Bill Analysis**sHB 5088*****AN ACT CONCERNING EDUCATIONAL SUPPORT ORDERS*****SUMMARY:**

This bill permits judges and family support magistrates to order divorcing parents and fathers subject to paternity orders to support their offspring who enroll in accredited college or vocational programs after high school until they reach age 23. It specifies criteria the court must consider and conditions the parents and students must satisfy. It applies to cases where the first child support order is entered on or after October 1, 2002. Parents must ask the court to enter such orders, and can do so at any time before the child's 23rd birthday.

The bill states that it does not create a right of action by a child for parental support for higher education and that its coverage does not include support for graduate or post-graduate education.

EFFECTIVE DATE: October 1, 2002

EDUCATIONAL SUPPORT ORDERS

Under the bill, an educational support order is an order entered by a court requiring a parent to provide support for a child or children to attend an institution of higher education or a private occupational school for the purpose of attaining a bachelor's degree, other undergraduate degree, or other appropriate vocational instruction. Orders terminate when the child reaches age 23, or, if this occurs during the academic year, at the end of that period.

Orders may include support for any necessary educational expense, including room, board, dues, tuition, books, fees, registration and application costs, and medical and dental expenses including health insurance.

The court can order that payments be made (1) to a parent to be forwarded to the college or school, (2) directly to the educational institution, or (3) otherwise as the court determines to be appropriate.

COURT CONSIDERATIONS

In determining whether to enter an educational support order, the court must consider all relevant circumstances. Under the bill, these include:

1. the parents' income, assets, and other obligations;
2. the child's need for support to attend school, taking into account his own assets and earning capacity;
3. the availability of financial aid from other sources, including grants and loans;
4. the reasonableness of the higher education to be funded, considering the child's academic record and the financial resources available;
5. the likelihood that the parents would have provided support to the child for higher education if the family were intact; and
6. the child's preparation for, aptitude for, and commitment to higher education; and
7. any evidence about the school the child would attend.

PARENTAL INVOLVEMENT IN SCHOOL SELECTION

The bill requires, at the appropriate time, that both parents discuss and agree on what school the child will attend. If they do not agree, the matter may be resolved by court order.

STUDENT'S OBLIGATIONS

Under the bill, to qualify for payments under an educational support order, the student must:

1. enroll in an accredited institution of higher education or private occupational school on at least a half-time basis and pursue a course of study commensurate with his vocational goals,
2. maintain good academic standing in accordance with the school's rules, and
3. make all academic records available to both parents during the term of the order.

Orders must be suspended after any academic period during which the child fails to comply with these conditions.

MODIFYING ORDERS

The bill makes existing criteria and procedures for modifying support orders applicable to educational support orders, including the requirement that the party seeking the modification show a substantial change in circumstances.

BACKGROUND

Voluntary Agreements to Provide Support

Legislation passed last year (PA 01-135) permits courts to modify divorcing parties' written agreements for the care, education, maintenance, or support of children over age 18. That law applies to agreements made on and after July 1, 2001 that have been incorporated in or made part of divorce decrees.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 4